some dissent from this rule. *Gearhart* v. *Olmstead*, 7 Dana (Ky.), 441; *Tittle* v. *Bonner*, 53 Miss. 578. The better view is that such demurrers should be taken distributively and ruled on as to each party or as to each count or plea. See *South Eastern Railway Co.* v. *Railway Commissioners*, 6 Q. B. D. 586, 605. A like rule as to joint assignments of error might well be adopted. Moreover the court was not called upon to decide this case as a matter of common law, for the amended Judicial Code provides that judgment in appellate courts shall be given "without regard to technical errors, defects, or exceptions which do not affect the substantial rights of the parties." See 40 STAT. AT L. 1181. As long as judges accomplish actual injustice by clinging to the antiquated technicalities of common-law pleading in the face of remedial legislation, popular distrust of law and the courts will increase. See Roscoe Pound, "The Causes of Popular Dissatisfaction with the Administration of Justice," 29 REP. AM. BAR ASS'N, 395, 405.

BANKRUPTCY — ACTS OF BANKRUPTCY — APPOINTMENT OF RECEIVER — MEANING OF "INSOLVENCY." — Upon a petition in involuntary bankruptcy on the ground that a receiver had been placed in charge of the debtor's property, it appeared that the state court had appointed the receiver because the debtor was insolvent, in that it could not meet its obligations as they fell due. It also appeared that the debtor was insolvent in fact, in that all its liabilities exceeded all its assets. *Held*, that the debtor be adjudicated a bankrupt. *In re Sedalia Farmers Co-op. Packing & Produce Co.*, 268 Fed. 898 (Dist. Ct., W. D. Mo.).

Section 3 a (4) of the Bankruptcy Act provides that the debtor has committed an act of bankruptcy if " . . . being insolvent, . . . because of insolvency a receiver or trustee has been put in charge of his property under the laws of a state. . . ." Section 1 a (15) provides that a person shall be deemed insolvent if the aggregate of his property is insufficient to pay his debts. Previous cases have held that the Act requires that the state appointment of a receiver be made because of insolvency in the above sense. *In re Golden Malt Cream Co.*, 164 Fed. 326; *In re Edward Ellsworth Co.*, 173 Fed. 699. It was the unfortunate result of these cases that, by inducing a creditor to file a carefully worded bill in a state court, a hopelessly insolvent debtor could have his estate administered in that court and thus evade many of the wholesome provisions of the Federal Act. Such an evasion was even more simple under the original Act, for it was not until the Amendment of 1903 that the words quoted above were inserted in section 3 a. See 32 STAT. AT L., c. 487. It seems clear that it was the purpose of the Amendment to preclude such evasions, and that the principal case is correct in giving effect to that purpose. It may be noted in support of this view that where the word "insolvency" is used in reference to the action of state courts, it is more reasonable to give it the meaning adopted by those courts than to insist on the definition in the Act. See Putnam, J., dissenting, in *In re Butler & Co.*, 207 Fed. 705, 715.

CONFLICT OF LAWS — REMEDIES: PROCEDURE — LIMITATION OF ACTIONS. — As a defense to an action on a contract which provided that it should be governed by the laws of Spain, the defendant pleaded the Spanish Statute of Limitations. The action was not barred by the *lex fori*. The plaintiff demurred. *Held*, that the demurrer be sustained. *Dorff* v. *Taya*, 185 N. Y. Supp. 174.

It is almost axiomatic that in matters respecting the remedy, the law of the forum governs, and not the law of the place where the cause of action arose or the parties resided. See STORY, CONFLICT OF LAWS, 8 ed., 793. The limitation of actions being a matter of remedy, the statute of the forum governs. *Carrigan* v. *Semple*, 72 Tex. 306, 12 S. W. 178. In all common-law jurisdic-

tions except Alabama, parties can contract themselves into a different period of limitations; but the court in the principal case rightly refused to hold that they had done so, since they had not clearly expressed such an intent. As the *lex fori* governs substantive law, construing the contract to mean that it should be treated as if made in Spain required that the validity of the contract be determined by Spanish law, but left matters of remedy to the *lex fori*. The fact that the *lex loci* is held to govern where a statute creates a new right to exist only a limited time is a proper application of the above rules, and not an exception. *Lamberton* v. *Grant*, 94 Me. 508, 48 Atl. 127; *Boston & M. R. R.* v. *Hurd*, 108 Fed. 116; *Miller* v. *Connor*, 177 Mo. App. 630, 160 S. W. 582. So also it is proper that title obtained by adverse possession under the Statute of Limitations of one state should not be disturbed though the law of the jurisdiction where the action is brought requires a longer period of adverse possession. *Brown* v. *Brown*, 13 Ala. 208.

CONFLICT OF LAWS — TESTAMENTARY SUCCESSION — LAW GOVERNING A REVOCATION. — The testatrix executed her will while domiciled in New Jersey. Subsequently she married a man domiciled in New York. According to the New York law in force at the time, her marriage revoked her will. But at the time of her death, while she was still domiciled in New York, the law had been changed so that marriage, for the purposes of this case, was no longer a revocation. *Held*, that the will be admitted to probate. *In re Cutler's Will*, 186 N. Y. Supp. 271.

For a discussion of the principles involved in this case, see NOTES, page 768, *supra*.

CRIMINAL LAW — DOUBLE JEOPARDY — CONVICTION UNDER STATE STATUTE AS BAR TO PROCEEDINGS UNDER THE VOLSTEAD ACT. — This is a prosecution under the National Prohibition Act. The defendant pleads in bar a conviction for the same conduct under a "bone-dry" state statute, enacted in 1915. *Held*, that the plea is good. *United States* v. *Peterson*, 268 Fed. 864 (Dist. Ct., W. D. Wash.).

The Constitution provides that no person shall be put twice in jeopardy for the same offense. U. S. CONST., Amendt. 5. But generally no plea of double jeopardy is available where the same act violates both national and state law, since the act offends two separate sovereignties. See *Cross* v. *North Carolina*, 132 U. S. 131; *Moore* v. *People of State of Illinois*, 14 How. (U. S.) 13. See 1 BISHOP, CRIMINAL LAW, 8 ed., §§ 178, 987–989. The Eighteenth Amendment grants Congress and the states concurrent power to enforce it by legislation. U. S. CONST., Amendt. 18, § 2. This means the states have ceded their previous power to regulate prohibition with a reservation of restricted power. See 34 HARV. L. REV. 317. It seems a state may still act as it sees fit, consistently with the Amendment and federal legislation. See *National Prohibition Cases*, 253 U. S. 350, 388–392. Thus, the Amendment does not invalidate a preëxisting state statute, more stringent than the federal. See 34 HARV. L. REV. 317. Such a statute, when first enacted, was an assertion of state sovereignty. It seems impossible that the Amendment can transmute this statute into legislation merely supportive of federal sovereignty. Unless it does so transmute it, the violation of this statute was an offense against a sovereign other than the one now prosecuting, and the prior conviction under it should be no bar. The refuge of one thus prosecuted a second time should be in judicial clemency rather than judicial perversion of law. See Taney, C. J., in a note in 14 Md. 149, 152. The court stresses the natural injustice of double punishment, yet inconsistently declares that a plea of prior conviction under a municipal ordinance is no bar to federal prosecution for the same conduct. The latter view is certainly correct. The ordinance is an expression of power delegated